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December 5, 2005

Ms. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard
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Frankfort, KY 40602

Re: Petition to Establish Generic Docket to Consider Amendments to
Interconnection Agreements Resulting from Changes of Law
KPSC 2004-00427

Joint Petition for Arbitration of NewSouth Communications Corp., NuVox
Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and
Xspedius Communications, LLC on Behalf of Its Operating Subsidiaries
Xspedius Management Co. Switched Services, LLC, Xspedius Management
Co. of Lexington, LLC, and Xspedius Management Co. of Louisville, LLC of
An Interconnection Agreement With BellSouth Telecommunications, Inc.
Pursuant to Section 252(b) of the Communications Act of 1934, As Amended
PSC 2004-00044

Dear Ms. O'Donnell:

BellSouth encloses for this Commission's information the Ohio Public Utilities
Commission's Arbitration Award dated November 9, 2005, in the Change of Law case in Ohio.

With respect to the Commingling issue, the Ohio Commission "...focuses on the fact
...that the FCC has determined that §§ 251 and 271 of the 1996 Act operate independently of
each other." "Although SBC's obligations under § 271 are not necessarily relieved based on the
FCC's § 251 unbundling analysis, these obligations should be addressed in the context of carrier-
to-carrier agreements, and not § 252 interconnection agreements, inasmuch as the components
will not be purchased as network elements." See the Commission's Conclusion of Issue 6,
(Should the Amendment include rates and terms for SBC's Section 271 obligations? If so, what
should these rates be?) at 23-27.

In addition, in its Conclusion of Issue 32 (Is SBC Ohio required to commingle Section
271 elements with other SBC Ohio wholesale services, including but not limited to UNEs?), the
Commission said

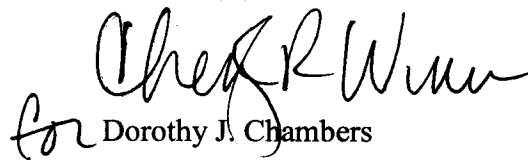
“We also note that the FCC concluded, in footnote 1990 of the TRO, that § 271 checklist items that are not UNEs under § 251(c)(3) are not subject to the UNE combination requirements and, in fact, in § 271 of the 1996 Act there is no mention of “combining” and it does not reference back to the combination requirement set forth in § 251(c)(3).

Applying the same analysis as applied by the FCC to reach its conclusion not to require combinations of checklist items, we decline to require the commingling of § 271 competitive checklist items with other wholesale services, including but not to limited UNEs. We find that the CLECs, in their arguments, failed to demonstrate how a combination, which is clearly not required per TRO footnote 1990, would be different from a commingled arrangement, as proposed by the CLECs.” at 104.

One paper copy of the Arbitration Award is provided for filing in case 2004-00044. Parties of record in case 2004-00044 will be served with this letter via U.S. mail. The document can be accessed at: <http://www.dis.puc.state.oh.us/CMPDFs/LZAH5XNU6JSB7R+.pdf>.

One paper copy of this filing is providing for filing in case 2004-00427. The attached certification for case 2004-00427 certifies that this filing was filed electronically today and served by email on parties of record. Parties of record can access the information at the Commission's Electronic Filing Center located at <http://psc.ky.gov/efs/efsmain.aspx>.

Very truly yours,


for Dorothy J. Chambers

Enclosures

cc: Parties of Record

CERTIFICATION FOR 2004-00427

I hereby certify that the electronic version of this filing made with the Commission this 5th day of December 2005 is a true and accurate copy of the documents filed herewith in paper form on December 5, 2005, and the electronic version of the filing has been transmitted to the Commission. An electronic copy of the Read1st document has been served electronically on parties.

for Cheryl R. Wynn

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KPSC 2004-00044
CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was served on the individuals on the attached service list by mailing a copy thereof, this 5th day of December 2005.


for Dorothy J. Chambers

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